

1 AN ACT relating to the revocation of peace officer certification.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 15.391 is amended to read as follows:

4 **(1) As used in this section:**

5 **(a) "Agency" means any law enforcement agency, or other unit of government**
 6 **listed in KRS 15.380, that employs a certified peace officer;**

7 **(b) "Final order" has the same meaning as in KRS 13B.010;**

8 **(c) "General employment policy" means a rule, regulation, policy, or**
 9 **procedure commonly applicable to the general workforce or civilian**
 10 **employees that is not unique to law enforcement activities or the exercise of**
 11 **peace officer authority, regardless of whether the rule, regulation, policy, or**
 12 **procedure exists or appears in a manual or handbook that is solely**
 13 **applicable to a law enforcement department or agency within the unit of**
 14 **government employing the officer;**

15 **(d) "Professional malfeasance" means engaging in an act in one's professional**
 16 **capacity as a peace officer that violates a federal, state, or local law or**
 17 **regulation;**

18 **(e) "Professional nonfeasance" means a failure to perform one's professional**
 19 **duty as a peace officer through omission or inaction that violates a federal,**
 20 **state, or local law or regulation; and**

21 **(f) "Regulation" means:**

22 **1. A federal or state administrative regulation adopted by a federal or**
 23 **state executive branch; and**

24 **2. A local rule, regulation, policy, or procedure adopted by ordinance,**
 25 **order, or resolution, or other official action by an agency. However,**
 26 **"regulation" does not mean a general employment policy.**

27 **(2) (a)** The certification of a peace officer ~~shall~~~~may,~~ after a hearing held in

1 conformity with ~~KRS Chapter 13B,~~] be revoked by the council for one (1) or
 2 more of the following:

3 ~~1. (1) Failure to meet or maintain training requirements;~~

4 ~~(2) Willful falsification of information to obtain or maintain certified status;~~

5 ~~(3) Certification that was the result of an administrative error;~~

6 ~~2. (4) Plea of guilty to, conviction of, or entering of an Alford plea to any~~
 7 ~~felony;~~

8 ~~3. (5) Prohibition by federal or state law from possessing a firearm; or~~

9 ~~4. (6) Receipt of a dishonorable discharge or bad conduct discharge,~~
 10 ~~or general discharge under other than honorable conditions] from any~~
 11 ~~branch of the Armed Forces of the United States.~~

12 **(b) A peace officer whose certification is revoked pursuant to paragraph (a) of**
 13 **this subsection may file an appeal with the council. If an appeal is filed, the**
 14 **council shall conduct an administrative hearing pursuant to KRS Chapter**
 15 **13B to consider the reinstatement of the peace officer's certification if the**
 16 **revocation was made in error or the condition requiring revocation was**
 17 **removed or remedied. However, an expungement of a felony, or the**
 18 **successful completion of a pretrial diversion agreement, shall not be a**
 19 **removal or remedy that constitutes grounds for reinstatement of the peace**
 20 **officer's certification.**

21 **(3) (a) The certification of a peace officer may be revoked by the council for one**
 22 **(1) or more of the following:**

23 **1. Willful falsification of information to obtain or maintain certified**
 24 **status;**

25 **2. Failure to meet or maintain training requirements, unless the**
 26 **certification is in inactive status. As used in this subparagraph,**
 27 **"inactive status" has the same meaning as in Section 2 of this Act;**

- 1 3. Entry of a court order prohibiting the peace officer from possessing a
2 firearm;
- 3 4. Termination of the peace officer for professional malfeasance or
4 professional nonfeasance by his or her agency;
- 5 5. Resignation or retirement of the peace officer while he or she is under
6 criminal investigation or administrative investigation for professional
7 malfeasance or professional nonfeasance; or
- 8 6. Receipt of general discharge under other than honorable conditions
9 from any branch of the Armed Forces of the United States that results
10 in the termination of the peace officer from his or her agency.
- 11 (b) The council shall review any allegations or reports of subparagraphs 1. to 6.
12 of paragraph (a) of this subsection to determine whether the allegation or
13 report warrants the initiation of proceedings to revoke a peace officer's
14 certification. If the council determines to initiate proceedings to revoke a
15 peace officer's certification based on the allegation or report, the
16 administrative hearing shall be conducted pursuant to KRS Chapter 13B.
- 17 (4) A peace officer may appeal a final order issued by the council denying
18 reinstatement of his or her certification pursuant to subsection (2) of this section
19 or revoking his or her certification pursuant to subsection (3) of this section as
20 provided in KRS 13B.140.
- 21 (5) (a) An agency that has knowledge of a peace officer in its employment who
22 meets any of the revocation conditions outlined in subsection (2) or (3) of
23 this section shall report that condition to the council within fifteen (15) days
24 of gaining knowledge.
- 25 (b) If an agency fails to make a report required by this subsection, the council
26 may suspend the agency from participation in the Kentucky Law
27 Enforcement Foundation Program fund. However, the time that an agency

1 may be suspended by the council under this paragraph shall not exceed five
 2 (5) years.

3 (6) Notwithstanding any requirement to the contrary in subsections (1) to (5) of this
 4 section, unless the Kentucky Department of State Police requests otherwise, the
 5 council shall not revoke the certification of a peace officer employed by the
 6 Department of Kentucky State Police pursuant to this section unless and until the
 7 peace officer is no longer employed by the Department of Kentucky State Police.

8 (7) The council may promulgate administrative regulations in accordance with KRS
 9 Chapter 13A to implement this section.

10 ➔Section 2. KRS 15.386 is amended to read as follows:

11 The following certification categories shall exist:

12 (1) "Precertification status" means that the officer is currently employed or appointed
 13 by an agency and meets or exceeds all those minimum qualifications set forth in
 14 KRS 15.382, but has not successfully completed a basic training course, except
 15 those peace officers covered by KRS 15.400. Upon the council's verification that
 16 the minimum qualifications have been met, the officer shall have full peace officer
 17 powers as authorized under the statute under which he or she was appointed or
 18 employed. If an officer fails to successfully complete a basic training course within
 19 one (1) year of employment, his or her enforcement powers shall automatically
 20 terminate.

21 (2) "Certification status" means that unless the certification is in revoked status or
 22 inactive status, the officer is currently employed or appointed by an agency and has
 23 met all training requirements. The officer shall have full peace officer powers as
 24 authorized under the statute under which he or she was appointed or employed.

25 (3) (a) "Inactive status" means that unless the certification is in revoked status:
 26 1. The person has been separated on or after December 1, 1998, from the
 27 agency by which he or she was employed or appointed and has no peace

- 1 officer powers; or
- 2 2. The person is on military active duty for a period exceeding three
- 3 hundred sixty-five (365) days.
- 4 (b) The person may remain on inactive status. A person who is on inactive status
- 5 and who returns to a peace officer position shall have certification status
- 6 restored if he or she meets the requirements of KRS 15.400(1) or has
- 7 successfully completed a basic training course approved and recognized by the
- 8 council, has not committed an act for which his or her certified status may be
- 9 revoked pursuant to KRS 15.391 and successfully completes in-service
- 10 training as prescribed by the council, as follows:
- 11 1. If the person has been on inactive status for a period of less than three
- 12 (3) years, and the person was not in training deficiency status at the time
- 13 of separation, he or she shall complete:
- 14 a. The twenty-four (24) hour legal update Penal Code course;
- 15 b. The sixteen (16) hour legal update constitutional procedure course;
- 16 and
- 17 c. The mandatory training course approved by the Kentucky Law
- 18 Enforcement Council, pursuant to KRS 15.334, for the year in
- 19 which he or she returns to certification status; or
- 20 2. If the person has been on inactive status for a period of three (3) years or
- 21 more, or the person was in training deficiency status at the time of
- 22 separation, he or she shall complete:
- 23 a. The twenty-four (24) hour legal update Penal Code course;
- 24 b. The sixteen (16) hour legal update constitutional procedure course;
- 25 c. The mandatory training course approved by the Kentucky Law
- 26 Enforcement Council, pursuant to KRS 15.334, for the year in
- 27 which he or she returns to certification status; and

1 d. One (1) of the following forty (40) hour courses which is most
2 appropriate for the officer's duty assignment:

- 3 i. Basic officer skills;
4 ii. Orientation for new police chiefs; or
5 iii. Mandatory duties of the sheriff.

6 (c) A person returning from inactive to active certification after June 26, 2007,
7 under KRS 15.380 to 15.404, shall meet the following minimum
8 qualifications:

- 9 1. Be a citizen of the United States;
10 2. Possess a valid license to operate a motor vehicle;
11 3. Be fingerprinted for a criminal background check;
12 4. Not have been convicted of any felony;
13 5. Not be prohibited by federal or state law from possessing a firearm;
14 6. Have received and read the Kentucky Law Enforcement Officers Code
15 of Ethics as established by the council;
16 7. Have not received a dishonorable discharge, bad conduct discharge, or
17 general discharge under other than honorable conditions, if having
18 served in any branch of the Armed Forces of the United States;
19 8. Have been interviewed by the employing agency; and
20 9. Not have had certification as a peace officer permanently revoked in
21 another state.

22 (4) "Training deficiency status" means that unless the certification is in revoked status
23 or inactive status, the officer is currently employed or appointed by an agency and
24 has failed to meet all in-service training requirements. The officer's enforcement
25 powers shall automatically terminate, and he or she shall not exercise peace officer
26 powers in the Commonwealth until he or she has corrected the in-service training
27 deficiency.

- 1 (5) "Revoked status" means that the officer has no enforcement powers and his or her
 2 certification has been revoked by the Kentucky Law Enforcement Council under
 3 Section 1 of this Act~~[for any one (1) of the following reasons:~~
 4 (a)~~—Failure to meet or maintain training requirements;~~
 5 (b)~~—Willful falsification of information to obtain or maintain certified status;~~
 6 (c)~~—Certification was the result of an administrative error;~~
 7 (d)~~—Plea of guilty to, conviction of, or entering of an Alford plea to any felony;~~
 8 (e)~~—Prohibition by federal or state law from possessing a firearm; or~~
 9 (f)~~—Receipt of a dishonorable discharge, bad conduct discharge, or general~~
 10 ~~discharge under other than honorable conditions from any branch of the~~
 11 ~~Armed Forces of the United States].~~
- 12 (6) "Denied status" means that a person does not meet the requirements to achieve
 13 precertification status or certification status.
- 14 (7) The design of a certificate may be changed periodically. When a new certificate is
 15 produced, it shall be distributed free of charge to each currently certified peace
 16 officer.
- 17 ➔Section 3. KRS 15.440 is amended to read as follows:
- 18 (1) Each unit of government that meets the following requirements shall be eligible to
 19 share in the distribution of funds from the Law Enforcement Foundation Program
 20 fund:
- 21 (a) Employs one (1) or more police officers;
- 22 (b) Pays every police officer at least the minimum federal wage;
- 23 (c) Requires all police officers to have, at a minimum, a high school degree, or its
 24 equivalent as determined by the council, except that each police officer
 25 employed prior to the date on which the officer's police department was
 26 included as a participant under KRS 15.410 to 15.510 shall be deemed to have
 27 met the requirements of this subsection;

- 1 (d) 1. Requires all police officers to successfully complete a basic training
2 course of nine hundred twenty-eight (928) hours' duration within one (1)
3 year of the date of employment at a school certified or recognized by the
4 council, which may provide a different number of hours of instruction as
5 established in this paragraph, except that each police officer employed
6 prior to the date on which the officer's police department was included
7 as a participant under KRS 15.410 to 15.510 shall be deemed to have
8 met the requirements of this subsection.
- 9 2. As the exclusive method by which the number of hours required for
10 basic training courses shall be modified from that which is specifically
11 established by this paragraph, the council may, by the promulgation of
12 administrative regulations in accordance with the provisions of KRS
13 Chapter 13A, explicitly set the exact number of hours for basic training
14 at a number different from nine hundred twenty-eight (928) hours based
15 upon a training curriculum approved by the Kentucky Law Enforcement
16 Council as determined by a validated job task analysis.
- 17 3. If the council sets an exact number of hours different from nine hundred
18 twenty-eight (928) in an administrative regulation as provided by this
19 paragraph, it shall not further change the number of hours required for
20 basic training without promulgating administrative regulations in
21 accordance with the provisions of KRS Chapter 13A.
- 22 4. Nothing in this paragraph shall be interpreted to prevent the council,
23 pursuant to its authority under KRS 15.330, from approving training
24 schools with a curriculum requiring attendance of a number of hours that
25 exceeds nine hundred twenty-eight (928) hours or the number of hours
26 established in an administrative regulation as provided by subparagraphs
27 2. and 3. of this paragraph. However, the training programs and schools

1 for the basic training of law enforcement personnel conducted by the
2 department pursuant to KRS 15A.070 shall not contain a curriculum that
3 requires attendance of a number of hours for basic training that is
4 different from nine hundred twenty-eight (928) hours or the number of
5 hours established in an administrative regulation promulgated by the
6 council pursuant to the provisions of KRS Chapter 13A as provided by
7 subparagraphs 2. and 3. of this paragraph.

8 5. KRS 15.400 and 15.404(1), and subparagraphs 1. to 4. of this paragraph
9 to the contrary notwithstanding, the council may, through the
10 promulgation of administrative regulations in accordance with KRS
11 Chapter 13A, approve basic training credit for:

12 a. Years of service credit as a law enforcement officer with previous
13 service in another state; and

14 b. Basic training completed in another state;

15 (e) Requires all police officers to successfully complete each calendar year an in-
16 service training course, appropriate to the officer's rank and responsibility and
17 the size and location of the officer's police department, of forty (40) hours'
18 duration, of which the number of hours shall not be changed by the council, at
19 a school certified or recognized by the council. This requirement shall be
20 waived for the period of time that a peace officer is serving on active duty in
21 the United States Armed Forces. This waiver shall be retroactive for peace
22 officers from the date of September 11, 2001;

23 (f) Complies with all provisions of law applicable to police officers or police
24 departments, including transmission of data to the centralized criminal history
25 record information system as required by KRS 17.150 **and transmission of**
26 **reports as required by Section 1 of this Act;**

27 (g) Complies with all rules and regulations, appropriate to the size and location of

1 the police department issued by the cabinet to facilitate the administration of
2 the fund and further the purposes of KRS 15.410 to 15.510;

3 (h) Possesses a written policy and procedures manual related to domestic violence
4 for law enforcement agencies that has been approved by the cabinet. The
5 policy shall comply with the provisions of KRS 403.715 to 403.785. The
6 policy shall include a purpose statement; definitions; supervisory
7 responsibilities; procedures for twenty-four (24) hour access to protective
8 orders; procedures for enforcement of court orders or relief when protective
9 orders are violated; procedures for timely and contemporaneous reporting of
10 adult abuse and domestic violence to the Cabinet for Health and Family
11 Services, Department for Community Based Services; victim rights,
12 assistance, and service responsibilities; and duties related to timely completion
13 of records; and

14 (i) Possesses by January 1, 2017, a written policy and procedures manual related
15 to sexual assault examinations that meets the standards provided by, and has
16 been approved by, the cabinet, and which includes:

17 1. A requirement that evidence collected as a result of an examination
18 performed under KRS 216B.400 be taken into custody within five (5)
19 days of notice from the collecting facility that the evidence is available
20 for retrieval;

21 2. A requirement that evidence received from a collecting facility relating
22 to an incident which occurred outside the jurisdiction of the police
23 department be transmitted to a police department with jurisdiction
24 within ten (10) days of its receipt by the police department;

25 3. A requirement that all evidence retrieved from a collecting facility under
26 this paragraph be transmitted to the Department of Kentucky State
27 Police forensic laboratory within thirty (30) days of its receipt by the

- 1 police department;
- 2 4. A requirement that a suspect standard, if available, be transmitted to the
- 3 Department of Kentucky State Police forensic laboratory with the
- 4 evidence received from a collecting facility; and
- 5 5. A process for notifying the victim from whom the evidence was
- 6 collected of the progress of the testing, whether the testing resulted in a
- 7 match to other DNA samples, and if the evidence is to be destroyed. The
- 8 policy may include provisions for delaying notice until a suspect is
- 9 apprehended or the office of the Commonwealth's attorney consents to
- 10 the notification, but shall not automatically require the disclosure of the
- 11 identity of any person to whom the evidence matched.
- 12 (2) A unit of government which meets the criteria of this section shall be eligible to
- 13 continue sharing in the distribution of funds from the Law Enforcement Foundation
- 14 Program fund only if the police department of the unit of government remains in
- 15 compliance with the requirements of this section.
- 16 (3) Deputies employed by a sheriff's office shall be eligible to participate in the
- 17 distribution of funds from the Law Enforcement Foundation Program fund
- 18 regardless of participation by the sheriff.
- 19 (4) Failure to meet a deadline established in a policy adopted pursuant to subsection
- 20 (1)(i) of this section for the retrieval or submission of evidence shall not be a basis
- 21 for a dismissal of a criminal action or a bar to the admissibility of the evidence in a
- 22 criminal action.